

**Minutes of the Regular Meeting of July 11, 2006**  
**One Twin Pines Lane, Belmont, California**

**CALL TO ORDER 7:33 P.M.**

**ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Dickenson, Mathewson

COUNCILMEMBERS ABSENT: Warden

Staff Present: Interim City Manager Cassingham, City Attorney Zafferano, Community Development Director de Melo, Public Works Director Davis, Police Lieutenant deSmidt, Assistant Finance Director Cheung, Interim Human Resources Director Sam, Parks and Recreation Director Politzer, City Engineer Phalen, Administrative Assistant Stallings, Code Enforcement Officer Buckman, City Clerk Cook.

**REPORT FROM CLOSED SESSION**

Mayor Mathewson stated that the Closed Session originally scheduled for this evening had been canceled subsequent to the posting of the agenda.

**SPECIAL PRESENTATIONS**

**Introduction of Adam Politzer, new Parks and Recreation Director**

Interim City Manager Cassingham introduced Adam Politzer, who started his position as the new Parks and Recreation Director on July 10<sup>th</sup>.

Parks and Recreation Director Politzer stated that he was excited to be a new member of the Belmont team. He introduced his family.

Councilmember Lieberman stated that he was involved in the interview process and was pleased to welcome Parks and Recreation Director Politzer to Belmont.

**PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Judy King**, Belmont resident, stated that she had appeared before the City Council in January regarding three issues, one of which had been resolved. She has not heard from anyone regarding her other two issues: 1) the sculpture at the train station (where is it and why has it not been put back up?), and 2) what is the status of the open space area at the train station?

Mayor Mathewson requested that staff follow up with Ms. King regarding her remaining issues.

**Gail Gandolfi**, Belmont Arts Council, stated that the Arts Council would soon be celebrating its 30<sup>th</sup> anniversary. She noted that the art exhibits change monthly at the gallery in the Manor Building, and she is currently exhibiting a show. She outlined the hours that the gallery is open to the public.

**Assembly Member Gene Mullin** stated he is visiting cities and school districts within his Assembly District during the July recess. He noted that the State adopted its budget on time. He noted that the State budget includes a \$3 billion debt reduction and contains the largest reserve balance in 30 years. He reviewed the November bond measure that will address infrastructure, education, and housing. He advised that he has heard from a number of cities, including Belmont,

regarding the proposed cable legislation, which has passed the Assembly. The Assembly is addressing redevelopment issues, including eminent domain and redefining “blight”. He currently serves on the Biotechnology and Housing Committees, and he will continue to serve in that capacity if re-elected.

## **AGENDA AMENDMENTS**

Councilmember Feierbach requested that her Item 9 be continued to the next meeting when all the members of the Council would be available, and she would like to present some written information ahead of time for Council consideration.

City Clerk Cook advised that members of the public requested the following items be removed for separate consideration: Item **4-B** (Ordinance approving a Conceptual Development Plan Amendment and Tentative Parcel Map for Notre Dame High School and the Province Center (Sisters’ Residence) at 1540 Ralston Avenue and **4-E** (Resolution Approving Plans and Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount not to Exceed \$340,000, Approving a Construction Contingency not to Exceed \$34,000, and Authorizing the City Manager to Execute a Contract for East Laurel Creek Stabilization Project, City Contract Number 475).

Councilmember Lieberman requested the removal of Item **4-C** (Resolution Approving Establishment of a 20-foot “No Parking” Zone on the West Side of Alameda de Las Pulgas North of the Belmont Library Driveway at 1110 Alameda de Las Pulgas and Removal of the Parking Restrictions on the West Side of Alameda de Las Pulgas between the Belmont Library and Garden Court) for separate consideration.

## **CONSENT CALENDAR**

**Approval of** Minutes of the Special and Regular Meetings of June 13, 2006, and Special Meeting June 23, 2006.

**Approval of** Resolution 9796 Approving Removal of the Loading/Unloading Zone at 850 Old County Road

**Approval of** Resolution 9797 Approving the Filing of the Transportation Fund for Clean Air Grant Application for City Contract Number 433 - U.S. Highway 101 Bicycle/Pedestrian Bridge Project in the Amount of \$1,000,000.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Consent Agenda was unanimously approved, as amended, by a show of hands (4-0 Warden absent).

## **ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION**

**Ordinance approving a Conceptual Development Plan Amendment and Tentative Parcel Map for Notre Dame High School and the Province Center (Sisters’ Residence) at 1540 Ralston Avenue (2nd reading and adoption)**

**Rick Frautschi**, Belmont resident, stated he did not participate on this issue as a Planning Commissioner since he lives adjacent to the subject property. He outlined recent Municipal Code violations by Notre Dame Elementary and High School, including tree removal without a permit. Approval of this application will result in four separate entities, one of which is not a good neighbor. He wondered who the contact person would be when issues arise. He would like to see some commitment that all the entities will comply with the Municipal Code.

Community Development Director de Melo reviewed the issues surrounding the Code violations. He noted that the health of one of the trees that was removed was unknown, but it was in poor condition. The noise violations have been addressed. Notre Dame High School's arborist has committed to working with the City arborist to prepare a landscape plan. Fees and penalties are under review. He noted that the applicant has requested a continuance of this item if there is a desire for a substantive discussion.

In response to Councilmember Dickenson, Community Development Director de Melo clarified that the Code violations and the application for the Conceptual Development Plan (CDP) amendment were two separate issues. Findings for this amendment were made at the last Council meeting.

Councilmember Dickenson stated that the high school has experienced challenges in being a good neighbor. The entities need a one-person communicator. The City has spent time and money addressing ongoing issues. He trusts that staff is working with the school to address the Code violations. Community Development Director de Melo responded that the landscape plan was included in the high school's Detailed Development Plan (DDP), approved in 2000. Some of the trees have been held up by wires. The school's replacement plan, at 3:1, exceeds the minimum requirement.

Councilmember Feierbach stated that had these issues arisen two weeks prior she would not have voted for the CDP amendment, but she continues to support the application because of the Sisters of Notre Dame. These comments should serve as an expressed warning to the high school regarding ongoing problems.

Mayor Mathewson expressed his disappointment with the elementary and the high school regarding numerous issues. He continues to have concerns regarding parking for the Province Center, and will be retracting his affirmative vote for this second reading.

In response to Councilmember Feierbach, City Attorney Zafferano clarified that the issue of Code violations is not a finding for the proposed CDP amendment. Parking may be a future issue if a different use is desired.

**Stephen Wilson**, Attorney for Applicant, expressed his commitment to assisting with communications, and recommended forming a committee to address this issue, which he would initiate, if desired. He noted the Conditional Use Permit is a separate issue.

Councilmember Feierbach expressed support for the formation of a committee.

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, and approved by a roll call vote (3-1, Mathewson no, Warden absent), to adopt Ordinance 1017 Approving a Conceptual Development Plan Amendment and Tentative Parcel Map for Notre Dame High School and the Province Center (Sisters' Residence) at 1540 Ralston Avenue, and to direct the applicant to initiate the formation of an ad hoc committee to address communications.

**Resolution Approving Establishment of a 20-foot "No Parking" Zone on the West Side of Alameda de Las Pulgas North of the Belmont Library Driveway at 1110 Alameda de Las Pulgas and Removal of the Parking Restrictions on the West Side of Alameda de Las Pulgas between the Belmont Library and Garden Court**

Councilmember Lieberman stated that he removed this item as a result of correspondence received from Joan Peceimer, who objects to the loss of parking, and who was not given an opportunity to provide input regarding this matter. In response to his question regarding the number of parking spaces, Public Works Director Davis confirmed that there would be a net gain of six to eight spaces with the proposed reconfiguration.

Councilmember Lieberman stated that library volunteers are parking on the street in order to free up on-site parking places, which may result in fewer parking problems. He supports the resolution for safety reasons.

Councilmember Feierbach stated that when this issue was addressed at the last meeting, it was recommended that all parking in and around the library be addressed, and Ms. Peceimer was to be contacted. She supports postponing this item.

Public Works Director Davis clarified that the bus stop will be relocated, which will free up additional spaces, and ADA (Americans with Disabilities Act) concerns have been addressed. This resolution results in a net gain in the number of parking spaces, and increases the site distance for those exiting the library driveway.

**Judy King**, Belmont resident, stated it was her understanding that the parking issue would be delayed several months. She also recommended that the library's on-site driveway be made one-way to address vehicular circulation.

**Chris Wozniak**, Belmont resident, stated she thought this issue would be delayed longer, and could be done when the new striping was completed for Carlmont High School. She concurs regarding circulation on the surface parking lot. This issue affects the McDougal neighborhood.

Public Works Director Davis stated that the Carlmont High School restriping project would be out to bid in one week, and the two projects are not dependent on each other. Lack of parking at the library is being addressed in the proposed resolution.

Councilmember Dickenson suggested the item be continued to allow for public input.

Councilmember Lieberman supports the proposed resolution as presented, since it results in a net increase in parking and addresses safety concerns.

Councilmember Feierbach stated the resolution may be satisfactory as presented, but waiting two weeks should not be a problem.

Mayor Mathewson concurred that he thought there would be more of a delay before this issue was brought back for further consideration.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, and approved by a show of hands (3-1-1, Lieberman no, Warden absent), to continue this matter to the Council meeting of July 25, 2006.

**Resolution Approving Plans and Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount not to Exceed \$340,000, Approving a Construction Contingency not to Exceed \$34,000, and Authorizing the City Manager to Execute a Contract for East Laurel Creek Stabilization Project, City Contract Number 475**

**Warren Gibson**, Belmont resident, stated that he predicted the collapse of this creek bank some time ago, but that State bureaucracy delayed resolution of the problem. He noted that the State Fish and Game Department has backed away from involvement in the matter. He thanked the staff for communicating with him and for providing drawings. He expressed concerns about the potential breach of sewer lines during repair, and recommended that the utilities be identified prior to commencement of any work. He commented regarding contractor liability. He recommended approval of the project.

Public Works Director Davis stated that the contractor is required to be bonded and insured, which would cover any potential problem. Care will be taken regarding utilities during construction.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, and unanimously approved by a show of hands (4-0, Warden absent) to approve Resolution 9798 Approving Plans and Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount not to Exceed \$340,000, Approving a Construction Contingency not to Exceed \$34,000, and Authorizing the City Manager to Execute a Contract for East Laurel Creek Stabilization Project, City Contract Number 475.

**COUNCIL COMMENTS AND ANNOUNCEMENTS**

Councilmember Dickenson stated that he and other elected officials in the County have been meeting regarding Cal Train service, and a press release had been issued. He invited the public to relay experiences with train service, and noted the committee is working with the Joint Powers Board to address level of service. He also noted that he was contacted by a resident following his comments at the last Council meeting about meeting with the Fire Marshall to address weed abatement at Water Dog Lake. The resident asked for a similar assessment in the San Juan Canyon.

Mayor Mathewson noted that the Belmont Blast girl's softball league has qualified for and will be attending the league's national competition at the end of the month.

Councilmember Feierbach stated she would be walking to the library with a group of mothers who have expressed concerns regarding pedestrian obstacles along the northern portions of Alameda de las Pulgas.

## **HEARINGS**

### **Continued Public Hearing to consider an Ordinance amending Article VIII, Section 15-100 et seq., of the Belmont Municipal Code (Noise Ordinance & Construction Activity), continued from March 14, 2006, April 25, 2006 and June 27, 2006**

Code Enforcement Officer Buckman reviewed the discussions from previous hearings regarding this matter. Further research was performed and the noise ordinance committee met to refine the ordinance language and process.

Code Enforcement Officer Buckman stated that enforcement is based on decibel levels, and there is a differentiation between residential and commercial levels, and day and nighttime levels permitted. Vibration noise is addressed. Construction activity regulations have been enhanced. He reviewed exemptions and restrictions, including exemptions for emergency work. He clarified that Conditional Use Permits (CUP's) would still be in place, even if more restrictive than the noise ordinance. He noted that the committee has recommended keeping street sweeping and parking lot sweeping together, but a resident has requested they be separated. He commented that parking lot sweeping is best accomplished when there are the fewest number of cars on site. He reviewed the violation process.

Council discussion ensued regarding definitions.

Councilmember Dickenson recommended creating a simple matrix to assist with enforcement.

Discussion ensued regarding examples of work performed by a homeowner. City Attorney Zafferano clarified that if the work is quiet, it can be done any time. Construction activity by a vendor is more restricted than that done by a homeowner, since the activity is usually more intense.

Regarding permitted hours, Councilmember Lieberman stated that using sundown as an ending time may be too restrictive during winter hours.

Councilmember Feierbach stated that enforcement would be complaint based and would likely be used only in extreme cases.

In response to Mayor Mathewson, Code Enforcement Officer Buckman stated that HVAC (heating/ventilation/air conditioning) units are covered under definitions. Cabaret noise is defined by decibel level. He noted that cabarets are likely to be governed by a CUP, which is usually more restrictive. He noted that the police department will be empowered to issue citations for after-hour noise violations.

Mayor Mathewson opened the hearing. No one came forward to speak.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Public Hearing was unanimously closed by a show of hands (4-0, Warden absent).

Councilmember Feierbach stated she agrees with the resident's concern about separating street sweeping and parking lot sweeping. She supports the hours of operation of parking lot sweeping from 7:00 a.m. to 6:00 p.m. Street sweeping can be started earlier as it is not a continuous noise.

Councilmember Lieberman recommended extending the hours for homeowner repair/maintenance work until 9:00 p.m.

Councilmember Dickenson expressed concern regarding time inconsistencies for enforcement purposes.

Code Enforcement Officer Buckman stated that it should not be an issue to differentiate the ending time for construction versus residential work. Police Lieutenant DeSmidt noted that it is easier to enforce noise violations if there are fewer variables.

Councilmember Lieberman recommended the hours of 8:00 a.m. to 9:00 p.m. for residential property maintenance work. He stated that most people are good neighbors. He does not want to over-regulate this ordinance.

Councilmember Feierbach stated that she could support 9:00 a.m. as a starting time on weekends.

Mayor Mathewson stated that homes are close together in some neighborhoods. Since this is a quality of life issue, the time needs to be more restrictive.

**ACTION:** On a motion by Councilmember Feierbach, seconded by Mayor Mathewson, and approved by a show of hands (3-1, Dickenson no, Warden absent) to set the hours for residential property maintenance work from 9:00 a.m. to 9:00 p.m. on Saturdays, Sundays and holidays.

Community Development de Melo recommended a change in the wording of Section 15-103(b)(1 -2) that would address deliveries to food retailers, restaurants, and other commercial and industrial businesses. This change would address one of the concerns raised by a resident, and would maintain consistency in hours of deliveries for all businesses.

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Lieberman, and unanimously approved by a show of hands (4-0, Warden absent), to approve the wording shown in italics under subparagraph (2) of Section 15-103(b), to read as follows: "Businesses (as described in section (1) and (2) above) with an active Condition Use Permit (CUP) which regulate hours of operation must adhere to the approved hours as specified in the CUP".

**ACTION:** Councilmember Feierbach made a motion, seconded by Mayor Mathewson, to delete parking lot sweeping from the exceptions to the noise limitations set forth in Section 15-102.

Councilmember Lieberman requested an amendment to the motion to designate parking lot sweeping as an exception, and to permit the hours of operation from 7:00 a.m. to 6:00 p.m., Monday through Friday. Councilmember Feierbach accepted this amendment.

**ACTION:** On the original motion, as amended to include the hours of operation regarding parking lot sweeping as noted above, was unanimously approved by a show of hands (4-0, Warden absent).

Councilmember Feierbach thanked the staff and the noise ordinance committee for its patience with this issue.

Code Enforcement Officer Buckman stated that the new noise ordinance would be mailed to all businesses. In response to Mayor Mathewson, he clarified that businesses which will be out of compliance with the new ordinance would have six months to come into compliance. An extension of time is available if reasonable efforts are being made to comply.

Community Development Director de Melo stated that staff decisions regarding time for compliance can be appealed to the City Council.

Councilmember Lieberman recommended that businesses with major compliance issues be contacted as soon as possible. He expressed concern regarding costs of compliance.

Code Enforcement Officer Buckman stated that many of these businesses are already addressing this issue. Outreach will be conducted.

**ACTION:** On a motion by Councilmember Lieberman, seconded by Councilmember Feierbach, and approved by a show of hands (4-0, Warden absent) to amend the noise ordinance, including those amendments made by separate motion, to waive further reading, and to set the second reading and adoption for July 25, 2006.

**RECESS:                    9:30 P.M.**  
**RECONVENE:            9:35 P.M.**

## **OLD BUSINESS**

### **Discussion and Direction on the Holiday Bow and Banner Program**

Administrative Assistant Stallings requested approval of an annual budget for the continuation of the holiday bow and banner program that began last year. She noted that there will be a need to replace some of the bows each year.

Councilmember Dickenson stated that some Belmont restaurants would like to install white lights in street trees in front of their businesses. Public Works Director Davis recommended that this program not be City-sponsored, but that staff could prepare specifications for interested businesses to use for installation. He noted that façade improvement funds may be available for this activity.

Mayor Mathewson recommended that replacement bows be larger.



**ACTION:** On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, and approved by a show of hands (4-0, Warden absent), to approve an annual holiday bow and banner budget not to exceed \$1,000, to phase in larger bows, and to develop a tree light program, if feasible, to be undertaken by interested businesses.

**Discussion and Direction Regarding the Paper Trails Draft Work Plan**

Public Works Director Davis noted that this has been an ongoing project, and he reviewed the activities that have taken place to date. He noted that contact has been made with adjacent property owners of several paths who may have encroached on the public land.

City Engineer Phalen reviewed the definition of paper trail, and noted that staff has identified 53 throughout Belmont. Some are improved and in use, and others are not. She recommended that staff be directed to pursue the development of three paper trails: Oak Knoll, Hillman, and Sunnyslope.

City Engineer Phalen reviewed the issue regarding paper trails that have been encroached on by the adjacent property owner. She noted there has been little response to the inquiries made. A legal survey may eventually be needed to resolve this issue.

City Engineer Phalen described the work plan. She noted that these trails meet the goals of the General Plan. Public outreach will be needed, as some development may be controversial due to noise and privacy issues. Funding sources will need to be sought, and grant monies may be available. Volunteer opportunities, such as the Scouts, bike groups, hikers, may be able to be utilized for future development. Staff recommended that the Parks and Recreation Commission to review the work plan.

In response to Councilmember Feierbach, City Attorney Zafferano clarified that the City may have the burden to show ownership of the properties that have been encroached on, and abatement may be necessary. Interim City Manager Cassingham stated that in her former city, Los Altos Hills, the City bore the survey expense, and there was some controversy regarding this issue, although there was ultimately a positive outcome.

**Frank Sandifer**, Belmont resident, stated he is affected by the proposed path on Paloma Drive. He described a recent water main break, and the hillside has finally been restored. He noted it has a 37 percent slope. Development of a trail would encroach on privacy, and there could be considerable cost in development. He was not contacted regarding this issue. This trail is not needed.

Councilmember Feierbach stated she does not support overbuilding on any of the paths, and would prefer to leave them in natural condition where possible. She expressed concern regarding encroachment by the adjacent property owners. She noted that some paths could be used as emergency fire access. She supports the work plan.

Public Works Director Davis stated that potential trails with significant grading may need more development, and the City Council would consider development details of each path. Neighbors would be contacted.

Councilmember Lieberman expressed support for the work plan. The trails and paths are good for the City. There are options to weigh with each, and the City may choose not to pursue all of them. He supports the Parks and Recreation Commission review.

## **NEW BUSINESS**

### **Discussion and Direction Regarding Municipal Code Revision Process**

City Attorney Zafferano stated that periodic updates to the Municipal Code have been made, and some have been generated by staff, and some at Council direction. He would like Council input regarding priority for future revisions. He noted that some may require considerable time and research in order to pursue.

In response to Mayor Mathewson, Community Development Director de Melo stated that the grading ordinance was reviewed three to four years ago as a means to reduce the amount of grading. At that time it was suggested that the entire ordinance be reviewed rather than updated on a piecemeal basis. He noted that this issue has been somewhat addressed in single-family design review.

Councilmember Feierbach stated that historic structures is important.

Councilmember Dickenson stated that the Police Department has recommended a review of Section 15, Offenses.

Councilmember Lieberman recommended seeking input from staff for Council consideration.

City Attorney Zafferano stated he would ask for staff input regarding need and time involved for updating individual ordinances, and he would bring this issue back to the Council for future consideration.

Council concurred with this direction.

## **MATTERS OF COUNCIL INTEREST/CLARIFICATION**

### **Discussion to Consider Applying the San Juan Canyon and Western Hills Slope Density Formula to the Rest of the City. (Feierbach)**

This matter was continued to August 8, 2006.

**ADJOURNMENT** at this time, being 10:20 P.M.

**Terri Cook**  
**Belmont City Clerk**

Meeting Tape Recorded and Videotaped

Audio Recording 639

Minutes approved 8/82006